

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

AIGBE AKHIGBE, Ph.D., <i>et al.</i> ,)	Case No. 5:22-CV-01990
)	
Plaintiffs,)	JUDGE PEARSON
)	
v.)	MAG. JUDGE HENDERSON
)	
UNIVERSITY OF AKRON,)	<u>JOINT STIPULATIONS FOR</u>
)	<u>DISPOSITIVE MOTIONS</u>
Defendant.)	

In accordance with the Court's February 14, 2023 Case Management Conference Order (Doc. 9), the parties hereby submit these joint stipulations as to all uncontested facts to be presented through dispositive motions.

1. The University of Akron (the "University" or "Defendant") is a state university of higher education and a body politic and corporate pursuant to R.C. 3345.011.
2. The University and the Akron-American Association of University Professors ("AAUP") are parties to a collective bargaining agreement ("CBA") in which the AAUP is the recognized bargaining representative for full-time faculty employed by the University.
3. Dr. Aigbe Akhigbe ("Dr. Akhigbe") was a faculty member hired by the University effective August 28, 2000 as the Frederick W. Moyer Endowed Chair in Finance. Upon hire, Dr. Akhigbe was awarded tenure and the rank of Full Professor. Due to his status as an Endowed Chair, Dr. Akhigbe's workload (after his first two years at the University) was 9 hours teaching and 15 hours research per year.
4. Dr. Akhigbe's race is African-American, and his national origin is Nigerian. Dr. Akhigbe was the only African American faculty member in the Department of Finance at the time

of the University's Reduction Force in 2020. At that time, there were nine faculty members in the Department of Finance.

5. Dr. Akhigbe worked as a Full Professor until he was notified on July 16, 2020 that his position had been selected for inclusion in the University's Reduction in Force in 2020. Dr. Akhigbe retired from the University effective August 21, 2020.
6. Dr. Bhanu Balasubramnian ("Dr. Balasubramnian") was a faculty member hired by the University in 2011 as a tenured-track Assistant Professor in the Department of Finance.
7. Dr. Balasubramnian's race is Asian, and her national origin is Indian.
8. Dr. Balasubramnian obtained tenure in 2017 and was promoted to Associate Professor. Plaintiff worked as an Associate Professor until her separation as part of the University's Reduction in Force in 2020. Dr. Balasubramnian's separation from the University was effective August 21, 2020. Dr. Balasubramnian did not apply for the position of Full Professor during her employment with the University.
9. At the end of the 2019-2020 academic year, the University determined that it faced a \$65-million-dollar structural budget deficit for fiscal year 2021.
10. Article 15, *Retrenchment* within the CBA governs the layoff procedure of the AAUP faculty. Article 15, Section 12 contains a *force majeure* clause that permits the University to implement layoffs outside the retrenchment procedure.
11. On July 15, 2020, the University, through the Board of Trustees, implemented Article 15, Section 12's *force majeure* clause and passed Board Resolution 7-7-20, eliminating 96 AAUP bargaining unit positions, including Plaintiffs' positions – no. 2619 (Dr. Akhigbe) and no. 2551 (Dr. Balasubramnian). Nine total faculty positions in the College of Business Administration were eliminated: two in the Department of Finance, three in the Department

of Accounting, two in the Department of Management, and two in the Department of Marketing.

12. On June 8, 2020, the AAUP filed Grievance 2020-01, challenging the University's invocation of Article 15, Section 12 of the *Retrenchment* provision and the consequential abolition of 96 faculty positions, which included the positions held by Drs. Akhigbe and Balasubramnian. The grievance proceeded to final and binding arbitration before Arbitrator Jack Buettner. Arbitrator Buettner issued his decision on September 18, 2020. Arbitrator Buettner upheld the University's invocation of Article 15, Section 12 and determined the elimination of 96 AAUP positions did not violate the CBA.
13. On July 30, 2020, the AAUP filed Grievance 2020-03, a class action grievance alleging that all 96 bargaining unit members, including Drs. Akhigbe and Balasubramnian, should have received written notice and pre-separation due process prior to the separation of employment.
14. Prior to implementing the reduction in force ("RIF"), the University tasked the departments within each college to propose budget cuts which, in some instances (including the Department of Finance), included the elimination of personnel positions.
15. Susan Hanlon was the Interim Dean for the College of Business Administration at the time of the RIF in 2020. James Thomson was the Chair of the Department of Finance ("Finance Department") and served as the Associate Dean of the College of Business Administration. The University's administration directed the Department of Finance to cut approximately 30% from its Fiscal Year 2021 budget over Fiscal Year 2020 budget. Drs. Hanlon and Thomson are both Caucasian and American.

16. The College of Business Administration's Strategic Initiative Team determined the criteria to be utilized in conducting the RIF. The members of the Strategic Initiative Team at the time of the RIF included: Dr. Hanlon, Dr. Thomson, Steven Ash (Chair of the Management Department), Deborah Owens (Interim Chair of the Marketing Department), Sucharita Ghosh (Chair of the Economics Department) and, Li Wang (Chair of the Accounting Department).
17. The College of Business Administration issued a Total Impact Score to each faculty member by using several metrics, including, but not limited to, 1) research, 2) teaching and 3) service by using the most recent two years of merit evaluations. The College of Business Administration also utilized the following categories in arriving at a Total Impact Score: 4) service adjustment; 5) critical adjustment; 6) non-tuition revenue generation potential (“NTRGP”) (which measured a faculty member’s ability to bring in revenue to the College other than through tuition); 7) teaches in high growth program (“TIHGP”) (which assessed whether a faculty member taught in a potentially high growth program). For these four categories, the only scores that were assigned were either a “1” or “0.”
18. Dr. Thomson conducted the initial assessment for the Department of Finance faculty members, as did all Departmental Chairs in the CBA for their respective faculty members. The initial scores were then reviewed and discussed with the Strategic Initiative Team. Dr. Thomson’s initial recommendations were not altered when the final determination was conducted by the Strategic Initiative Team.
19. On June 10, 2020, Dr. Thomson proposed that the first position to be included in the RIF from the Department of Finance was the one occupied by Dr. Akhigbe.

20. In mid-June, 2020, the College of Business Administration submitted the initial list of proposed positions to be included in the RIF to the Provost's Office (which included positions from other Departments in addition to the Department of Finance). This initial list included the position occupied by Dr. Akhigbe. The Provost's Office instructed the College of Business Administration to include two more positions in the RIF to meet the budgetary targets. The position occupied by Dr. Balasubramnian in the Department of Finance was then selected for inclusion in the RIF (in addition to the position held by Dr. Akhigbe).
21. The elimination of the position held by Dr. Akhigbe (position no. 2619) resulted in a cost savings to the University of \$318,571.50, inclusive of benefits.
22. The elimination of the position held by Dr. Balasubramnian (position no. 2551) resulted in a cost savings to the University of \$201,979.17, inclusive of benefits.

IT IS SO STIPULATED.

Respectfully submitted and dated this 20th day of October, 2023.

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was filed electronically this 20th day of October 2023 with the Court's electronic docketing system. Interested parties can access the Stipulation through this means.

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